

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

L.A.-SSP,-Suits CCNo.525/09 in W.P. No. 13250/08 filed by Bheemavaram Eswar Reddy and 57 others of Bedusupalli, H/o. Chenduvai (V) of Atloor (M)- interest on Addl. Market Value and Solatium-revised by balance amount due to be paid-Proposals submitted for allotment of funds under Somasila Project for 2010-2011-Sanction orders-Issued.

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IRRIGATION & C.A.D.(PW-LA.II) DEPARTMENT

G.O.Rt.No. 404

Dated: 19 .06.2010

Read

From the Special Collector, G.N.S.S. Kadapa Lr.No. A1/827/08,  
Dated:10.10.2008, 24.11.2008, 7.10.2009, 8.12.2009,  
19.1.2010 and 17.4.2010.

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O R D E R:

The Special Collector, G.N.S.S. Kadapa in the reference 1<sup>st</sup> read above has stated that the Hon'ble High Court of A.P. in its orders dated 2-7-2008 in W.P.No.13241 of 2008 has ordered that the petitioners therein shall be entitled to interest in terms of the award passed by the reference court in respect of the lands covered by the same notification.

2. The Spl.Collector, GNSS, Kadapa has further stated that a stand was taken to appraise the Hon'ble High Court that the Land Acquisition Officer is not competent to pay interest U/s 28 of the LA Act but he is liable to pay interest U/S 34 of the LA Act and the Award U/S 11 is different from Award U/S 28-A. The Land Acquisition Officer is not competent to revise the Award passed by him and the applicant U/S 28-A is not eligible for interest for which he is not due. In the earlier similar writ petitions the facts were put forth and counter affidavits have been given to Government Pleader's office for filing in the Hon'ble High Court and the Writ Petitioners are not entitled for any payment of interest from the date of earlier award U/s 11 and they are only entitled for interest from the date of Award U/s 28-A."

3. The Special Deputy Collector (L.A.) T.G.P. Kadapa has reported that, the structures in Bedusupalli H/o. Chenduvai(V) of Atloor (M) were acquired by the Special Deputy Collector (LA), T.G.P. Unit-II, Kadpa through Award No. 5/95, Dated: 31.8.1995. Aggrieved with the amount of the compensation Awarded some of the awardees filed applications U/s. 18 of L.A. Act. The Special Deputy Collector (LA) T.G.P. Unit-II, made a reference to the District Judge, Kadapa and the reference was numbered LAOP.NO. 248/2000 to 250/2000. The District Judge, Kadapa disposed the said LAOP's by individual orders, Dated: 26.2.2002 and decreed.

4. Aggrieved by the said decree of the District Judge, Kadapa, the Special Deputy Collector (LA) T.G.P., Unit-II, Kadapa filed appeals in the Hon'ble High Court of A.P., and the Hon'ble High Court while disposing the said appeals in A.S. Nos. 449/2004. A.S. No. 3069/2003 and A.S.No. 361/04 by individual orders Dt. 9.3.06 modified the decree of the Lower Court. In pursuance of the said decrees of the Hon'ble High Court, the decretal amounts relating to LAOP Nos. 248/2000 to 250/2000 amounting to Rs. 2,48,66.822/- was deposited in the District Judge Court, kadapa during the year 2006. However while calculating the amount of Decretal charges, the LAO has calculated interest only on enhanced market value. Subsequently, One Smt. Shaik Hussain Bee and 146 others of Bedusupalli have filed writ Petitions in the Hon'ble High Court in W.P.No. 23423/06 and 23424/06 seeking directions of the Hon'ble High Court to the respondents to determine the compensation amount in respect of their structures on par with those of the Lower Court in LAOP Nos. 248/2000 to 250/2000 Dt. 26.2.2000 U/s 28-A, alleging that the applications filed by them U/s 28-A were not disposed by the LAO. The Hon'ble High Court by an order Dt. 10-11-2006 disposed the said writ petitions with a direction to the respondents to examine the

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applications purported to have been made by the petitioners U/s 28-A of the Act if the same are in order and decide the same as per law and pass appropriate orders within a period of 4 weeks from the date of receipt of the order. Thereafter the LAO and special Deputy Collector (LA) T.G.P., Unit-II, Kadapa, conducted due enquires and passed Award vide Award Progs. No. B/1/2007 Dt. 10.12.2007 and paid the re-determined compensation amount of Rs. 69,91,764/- to the claimants U/s 28-A of the Act. However while calculating the re-determined compensation amount the LAO has not calculated interest on solatium and Addl. Market Value and interest was paid only on the enhanced market Value component that too from the date of filing of applications U/s 28-A to the date of Award i.e., 10.12.2007.

5. Aggrieved by the said re-determination of compensation, the claimants U/s 28-A filed a writ Petition in the Hon'ble High Court in W.P.No. 13250/08 challenging the award of the LAO on the ground that interest was calculated from the date of filing applications U/s 28-A instead of date of publication U/s 4-(1) of the act and no interest was calculated on solatium and Addl. Market Value. The Hon'ble High Court disposed the said writ Petition on 21-7-2008 with the following order. Impugned order Dt. 11.1.2008 is set aside to the extent of the interest awarded and the deduction of 10% towards Income Tax and the writ Petition is disposed off holding that the petitioners herein shall be entitled to interest in terms of the Award passed in LAOP. Nos. 248 to 250/2000 as modified in A.S. No. 449/2004 and batch.

6. In this connection no appeals have been filed against the orders of the Hon'ble High Court in the said W.P.No. 13250/08 as S.L.Ps were filed in the Hon'ble Supreme Court of India, against the orders of the Division Bench of the Hon'ble High Court in identical cases in W.A. Nos. 1765/08 and 1785/08. Since the said Special Leave Petitions were dismissed and review Petitions there on were dismissed, the orders of the Hon'ble High Court were implemented in the relied cases. Hence it is now mandatory to implement the orders of the Hon'ble High court in w.P.No. 13250/08 Dt. 21.7.2008. While the matter stands thus petitioners filed a Contempt case No. 525/09 in the Hon'ble High Court with a request to punish the respondents for deliberately disobeying the orders of the Hon'ble High Court in W.P.No. 13250/08 Dt. 21.7.08 in not implementing the orders of the Hon'ble High Court.

7. The Government Pleader for L.A., Hon'ble High Court of A.P., Hyderabad in his Lr. Dt. 7.4.2010 has informed that this contempt case came up for hearing before the Hon'ble High Court on 6-4-2010 and the Hon'ble High Court took a serious view for non-compliance of the orders of the Hon'ble High Court in W.P.No. 13250/08, Dt. 21.7.08 further informed the Hon'ble High Court finally granted 2 weeks time for reporting compliance, failing which personal appearance will be ordered.

8. The special Deputy Collector (L.A) T.G.P., Unit-II, Kadapa has submitted proposals for payment of interest on Market Value and addl. Benefits i.e., solatium and Addl. Market Value from the date of passing of Award to the date of passing of Award U/S 28-A for an amount of Rs. 17,97,739/- (Rupees Seventeen Lakhs Ninety seven Thousand Seven Hundred and thirty Nine Only) including income tax deductible amounting to Rs. 2,52,663/- after deducting the amounts already paid and the Special Collector(L.A), G.N.S.S., Kadapa has requested that an amount of Rs. 18.00 Lakhs (Rupees Eighteen Lakhs Only) may kindly be allotted to the special Deputy Collector (L.A) T.G.P., Unit-II, Kadapa under "charged" funds of Somasilla Project for 2010-11 for payment of re-determined amount of the compensation to the Petitioners in Contempt Case in C.C.No. 525/09.

9. After careful examination of the matter, Government hereby accord sanction for payment of interest on Market Value and addl. Benefits i.e., solatium and Addl. Market Value from the date of passing of Award to the  
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date of passing of Award U/S 28-A for an amount of Rs. 17,97,739/- (Rupees Seventeen Lakhs Ninety seven Thousand Seven Hundred and thirty Nine Only) including income tax deductible amounting to Rs. 2,52,663/- after deducting the amounts already paid to allot to the Special Deputy Collector (LA), T.G.P., Unit-II, Kadapa under charged funds of Somasila project for 2010-11 for payment of re-determined amount of the compensation to the Petitioners in Contempt Case in C.C.No. 525/09. Subject to verification whether the reference under Section 18 (1) of the L.A. Act is made to the Lower Court after following all the guidelines/directions on the subject and in case, it is detected that section 18 reference was made contrary to the rules/guidelines issued by the Government/CCLA, Hyderabad immediate action should be taken to recover the loss sustained by the Government from the staff concerned and filing of restitution petition and also subject to confirmation of the CE as to the extent of land acquired. Further the Special Collector, G.N.S.S, Kadapa should verify the calculations made by the LAO, once again thoroughly with reference to the decree and instructions issued by the Government/CCLA, Hyderabad on the subject from time to time, duly deducting the income tax, as per rules, before depositing the amount in the Lower Court. The Special Collector, G.N.S.S. Kadapa is directed to deposit the above sanctioned decretal amount in the respective court after thorough verification of calculations made by the LAO once again at his level and also verify the decrees and decretal charges, if any, already paid duly deducting the Income Tax as per rules. He is also directed to follow the directions of Hon'ble High Court dated: 30.4.2007 in W.P. No. 2181/2005 in depositing the above sanctioned decretal amount in the respective court.

10. The amount sanctioned in Para (09) above shall be debitable to the Head of Account under: "4701 -COL on Major and Medium Irrigation; 01 - Major Irrigation (Commercial); MH 112- G.H. 11- Normal State Plan; S.H. (26)D & A works'; 530 Major Works; 532 - Lands (charged)". In case, the available budget provision is not sufficient to meet the present requirement, the expenditure shall be met initially by way of advance from contingency fund subject to surrendering an equal amount from voted grant.

11. This order issued with the concurrence of Finance (W&P) Department vide their U.O. No.S.P./2776/F7(A2)/10-1, Dated: 2.6.2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJIV RANJAN MISHRA,  
SECRETARY TO GOVERNMENT

To

The Special Collector, G.N.S.S, Kadapa

The Special Deputy Collector, L.A. T.G.P. Unit-II, Kadapa District

The Engineer-in-Chief, I & CAD, Erramanzil, Hyderabad

The Superintending Engineer, I & CAD, Kadapa

The Director of Works and Accounts, Hyderabad

The District Treasury Officer, Kadapa

The Joint Director, Works & Accounts, Kadapa

The Pay & Accounts Officer, Kadapa

Copy to

P.S. to Minister ( M & MI)

Law Department/Finance (W&P) Department

Secretary (RRM) Peshi

C.No. 21498/L.A.II/A1/2010

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SECTION OFFICER